

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

APPLIED FILTER TECHNOLOGY, INC., a
Washington Corporation,

Plaintiff,

vs.

JEFF WETZEL, individually, and the marital
community of JEFF WETZEL and JANE
DOE WETZEL; ENVIRONMENTAL
SYSTEMS AND COMPOSITES, INC., a
Washington Corporation,

Defendants.

Case No. C09-1040JLR

**[PROPOSED] ORDER TO SHOW
CAUSE FOR PRELIMINARY
INJUNCTION AND TEMPORARY
RESTRAINING ORDER AND
PRESERVATION ORDER**

Upon the reading and filing the declarations of Seth H. Row dated July 23, 2009 and Paul Tower, dated July 23, 2009, and the exhibits annexed thereto, and the Motions submitted by plaintiff Applied Filter Technology, Inc. ("AFT") herewith, it is hereby

ORDERED, that defendants Jeff Wetzel ("Wetzel") and Environmental Systems and Composites, Inc. ("ESC") show cause before this Court, at the United States Courthouse, Courtroom _____, 700 Stewart Street, Seattle, Washington, on August __, 2009, at _____

a.m./p.m., or as soon thereafter as counsel may be heard, why a preliminary injunction should
[PROPOSED] ORDER TO SHOW CAUSE

AND TRO -1-

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Parsons Farnell & Grein, LLP
Attorneys at Law
1030 SW Morrison Street, Portland, OR 97205
Telephone: (503) 222-1812 / Fax: (503) 274-7979

1 not issue herein pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining and
2 restraining, during the pendency of this action, ESC and Wetzel, their employees, agents,
3 officers, directors, subsidiaries, affiliates, parents, and all other persons or entities within their
4 control or supervision or acting in concert with them ("ESC Entities"), from:

5 a) competing with AFT for work related to the Tucson, Arizona "Ina Road" project;

6 b) using AFT's proprietary and confidential information relating to customers and
7 suppliers for the purpose of competing with AFT in obtaining work on future projects on which
8 AFT is in good faith attempting to procure work;

9 c) using AFT's proprietary and confidential information relating to testing, product
10 design, processes, designs, and techniques in advertisements, solicitations, discussions, or
11 proposals to potential customers, suppliers, employees, agents, or the public;

12 d) that ESC return all of AFT's proprietary and confidential information and certify
13 the destruction of all copies made of such information and of all information derived from such
14 proprietary and confidential information;

15 and the Court further

16 **FINDS**, that AFT has shown good cause for the issuance of a Temporary Restraining
17 Order, for the following reasons: 1) there is a significant likelihood that AFT will succeed on
18 the merits of its claims for breach of the non-disclosure agreement entered into by Wetzel, and
19 its claims for violation of the Washington Uniform Trade Secrets Act; 2) AFT has shown that it
20 is highly probable that it will suffer immediate and irreparable injury if ESC and Wetzel are not
21 restrained; 3) the balance of hardships likely to result from granting of temporary injunctive

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24 [PROPOSED] ORDER TO SHOW CAUSE
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1 relief favors AFT; 4) the public interest favors enforcement of AFT's contractual and statutory
2 rights; and therefore it is further

3 **ORDERED**, that pending the hearing on AFT's motion for a preliminary injunction, that
4 Wetzel and ESC, their employees, agents, officers, directors, subsidiaries, affiliates, parents, and
5 all other persons or entities within their control or supervision or acting in concert with them
6 ("ESC Entities"), be, and the same hereby are, TEMPORARILY RESTRAINED from:

7 a) competing with AFT for work related to the Tucson, Arizona "Ina Road" project,
8 and ESC is ORDERED to communicate to the contracting agency/company that they are
9 withdrawing from such project;

10 b) using AFT's proprietary and confidential information relating to customers and
11 suppliers for the purpose of competing with AFT in obtaining work on future projects on which
12 AFT is in good faith attempting to procure work;

13 c) using AFT's proprietary and confidential information relating to testing, product
14 design, processes, designs, and techniques in advertisements, solicitations, discussions, or
15 proposals to potential customers, suppliers, employees, agents, or the public;

16 d) accessing, destroying, altering, or copying, any electronically stored information
17 (ESI) contained within ESC or Wetzel's computer systems, including file servers, email servers,
18 webmail repositories, "cloud" storage, or home or personal systems, pending AFT's forensic
19 expert copying such information from AFT's systems, as provided below;
20 and it is further

21 **ORDERED** that AFT's request for preservation of electronically stored information
22 ("ESI") is granted. ESC and Wetzel shall permit AFT's forensic expert Paul French of Bridge
23 City Legal Consulting, within 48 hours of the time of this Order, to have access to, and make

24 [PROPOSED] ORDER TO SHOW CAUSE
AND TRO -3-

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1 “mirror image” copies of, all portable and non-portable media storing ESC or Wetzel’s
 2 electronically stored information (ESI), including but not limited to any portable hard drives
 3 used by Wetzel to store information downloaded from AFT’s computer systems and any email
 4 files for accounts used by Wetzel. ESC and Wetzel shall provide French with all passwords,
 5 encryption keys, or access codes necessary to access such ESI. French shall maintain strict
 6 chain of custody control over such ESI. The parties shall agree on search methods to identify
 7 whether AFT confidential information exists on ESC’s systems and whether such information
 8 has been used or further disclosed, including through the use of email, and Mr. French shall then
 9 disclose that information to both sides, for the purpose of presenting further evidence at the
 10 preliminary injunction hearing; and it is further

11 **ORDERED** that AFT shall not be required to post a bond in order to put this Order into
 12 effect; and it is further

13 **ORDERED**, that a copy of this Order to Show Cause and Temporary Restraining Order
 14 and Preservation Order, together with copies of all papers on which it is based, be served on
 15 James D. Sullivan, counsel for Wetzel and ESC on or before _____, 2009 by personal or
 16 office service, and that such shall be deemed good and sufficient service thereof; and it is further

17 **ORDERED** that papers in opposition to AFT’s motion for a preliminary injunction be
 18 served by email upon Seth H. Row, Esq., attorneys for plaintiff, at srow@pfglaw.com, cc: to
 19 lborkowski@pfglaw.com, by _____ a.m./p.m. on _____, 2009 and that any reply

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24 [PROPOSED] ORDER TO SHOW CAUSE
 AND TRO -4-

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1 papers in further support of AFT's motion be served by hand upon James D. Sullivan, counsel
2 for ESC and Wetzel, by personal or office service, by ____ a.m./p.m. on _____, 2009.

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4 Dated this ____ day of July, 2009.

5 Time: _____ a.m./p.m.

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UNITED STATES DISTRICT JUDGE

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9 Presented by: /s/ Seth H. Row

10 Seth H. Row, WSBA #32905
11 Of Attorneys for Plaintiff
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24 [PROPOSED] ORDER TO SHOW CAUSE
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